

JEFFERSON COUNTY COMMISSIONERS
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KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
February 26, 2008**

Present: Commissioners Lythgoe and Notbohm; Matt Johnson, County Attorney; Harold Stepper, County Planner; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; George Teeling, Marilyn McCauley, Shirley Vossler, Barb Reiter

Absent: Commissioner Weber

MINUTES

Commissioner Notbohm moved to approve the minutes of February 12. Commissioner Lythgoe seconded. The motion carried.

CALENDAR REVIEW

- 2/27 Pre-construction meeting for Lump Gulch Bridge replacement – Great West – 10:00
County Government Week planning session – 3:30
- 2/28 Zoning Commission meeting – Montana City – 4:00
Solid Waste board meeting – 7:00

COMMISSION REPORTS

ELKHORN MINE COMMUNITY WORKING GROUP

Commissioner Lythgoe reported that he attended an Elkhorn Mine Community Working Group meeting on Wednesday. It was a good meeting, though not as well attended as some of the other meetings. They are still on schedule, hoping that they will have a decision by April or May and can begin mining this fall. Shane, the mine manager, gave a bit of a dissertation on his philosophy of how the mine will benefit the community of Elkhorn and also Jefferson County. He hope that he shares that in the future; he did a very good job and it appears to him that Shane is very sensitive to some of the bad mining practices that have happened in the past and that he and his company don't want to be in that category at all, and they have a plan in place and it is a plan that they are working on all of the time to make sure that they are not one of those mines.

Commissioner Lythgoe noted that one thing that did happen and was discussed a bit is there are three landowners in the area that tried to file a restraining order the previous Wednesday to keep the mine from doing any work on the road. What came out of the hearing with the Judge was that, until the issue is decided, the road could not be expanded on the portion of road adjoining their property, but brush clearing could continue. Road work on the rest of the road can continue. Mine personnel have decided that no work will be done on any portion of the road until the final decision is made. At issue is if this is a prescriptive right, as those calling for the injunction believe, or if it is a dedicated county road, as the County maintains. The judge did indicate that he needed to hear from the attorneys in 15 days and he will make a decision in 60 days.

JLDC MEETING

Commissioner Lythgoe reported that JLDC had a tour of the Boulder Hot Springs before the JLDC meeting last Wednesday. The tour was very interesting, and a lot of rehabilitation has taken place. The tour brought back some memories of times he spent there as a teenager. He didn't realize that there are over 270 acres that are with the property. Also, the number of hot springs in the area was a surprise. The JLDC meeting was basically business as usual. They discussed the subdivision of the south campus. They have pulled their preliminary plat request, and won't be proceeding with that for some time. Commissioner Notbohm asked the reason. Commissioner Lythgoe stated that they just aren't quite ready. The city needs to make some decisions, there are some facility issues

CENTER FOR MENTAL HEALTH

Commissioner Lythgoe reported that he attended the Center For Mental Health executive board meeting in Great Falls on Monday.

ROCKY MOUNTAIN DEVELOPMENT COUNCIL

Commissioner Notbohm reported that he attended the RMDC meeting last week. It was a lengthy meeting. They discussed their budgets and programs. They have budget concerns like everyone. The programs are doing well, and now they are expanding into mental health. Commissioner Lythgoe stated that at the Center for Mental Health meeting they discussed the crisis center that is planned for Helena. Since Saint Peter's closed their unit, if someone needs to be brought in and committed for a period of time for evaluation, there is no where for them to go. A lot of people with mental illness are being sent to jail or Warm Springs, and those are not good options for some people. Something needs to happen and the state realizes this. They are working on opening crisis centers throughout the state to deal with people with mental illness, rather than sending them to jail or right to Warm Springs.

CORRESPONDENCE

A grant contract for scholarships for Jefferson County via the Preserve America Grants was presented for signature. Commissioner Lythgoe moved to approve Commissioner Weber to sign
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the contract. Commissioner Notbohm seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

RESOLUTION 09-2008 APPOINTING A SPECIAL DEPUTY COUNTY ATTORNEY

Matt Johnson, County Attorney, stated that the Attorney General's office has a case that they want to prosecute, but cannot do so without having basically the approval of a special deputy. There will be no cost to Jefferson County; they will basically take care of the case. They are asking for a Special Deputy County Attorney for this case.

Commissioner Lythgoe asked why this is necessary. Matt stated that in order for the Attorney General's office to come into a county, they have to have whoever is prosecuting it be called a Special Prosecutor. Instead of him having to go pay another attorney to do this, the Attorney General's office is willing to do it for us. It is also a conflict case, as everyone in his office knows who this person is. Commissioner Notbohm asked if the trial will take place here. Matt stated that this is correct; it will be filed here. Commissioner Lythgoe read the resolution as follows:

RESOLUTION 09-2008

A RESOLUTION APPOINTING A SPECIAL DEPUTY COUNTY ATTORNEY

WHEREAS, the Jefferson County Attorney has requested prosecutorial assistance in the case of State v. Lane, and

WHEREAS, it is desired and deemed appropriate that a Special Deputy County Attorney be appointed to assist in the prosecution of the aforementioned case; and

WHEREAS, Montana Code Annotated § 44-4-111 authorizes and contemplates that the training coordinator for County Attorneys and the Bureau Chief of Prosecution Services Bureau (together with the deputies within said bureau) act as special counsel on request of the County Attorney and upon the approval of the Board of County Commissioners; and

WHEREAS, Montana Code Annotated § 2-15-501(5) authorizes the Attorney General to provide assistance to County Attorneys in the discharge of his or her duties.

IT IS HEREBY RESOLVED:

That the attorneys assigned to the Prosecution Services Bureau of the Department of Justice are hereby appointed as Special Deputy County Attorneys for Jefferson County for the purpose of assisting in the prosecution of the aforementioned case and that any of said deputies can fulfill the functions set out in Montana Code Annotated § 44-4-103.

IT IS FURTHER RESOLVED:

That under the terms of this agreement, no fee will be charged for attorney time provided by the Bureau based upon the fact that pursuant to the internal operational policies adopted by the Attorney General September 1, 1999, assistance in such cases is provided without an hourly fee. Witness fees and expenses, jury costs, and other normal costs associated with trial will be the County's responsibility as with all other prosecutions.

DATED this 26th day of February, 2008.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER

Commissioner Notbohm moved to approve resolution 09-2008. Commissioner Lythgoe seconded. The motion carried.

BOARD APPOINTMENTS

Commissioner Notbohm moved to reappoint Rick Hassakker to Boulder TV Board.

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Commissioner Lythgoe seconded. The motion carried.

Commissioner Notbohm moved to reappoint Ellen Rae Thiel to the Museum Board.
Commissioner Lythgoe seconded. The motion carried.

Commissioner Notbohm moved to appoint Tresa Larson to the Boulder Mosquito Board.
Commissioner Lythgoe seconded. The motion carried.

Commissioner Notbohm moved to appoint Tresa Larson to the Fair Board. Commissioner Lythgoe seconded. The motion carried.

Commissioner Notbohm moved to reappoint Marilyn McCauley to the Fair Board.
Commissioner Lythgoe seconded. The motion carried.

COLLEEN AND GEORGE TEELING - DISCUSS TAX CONCERNS

George Teeling stated that he and his wife live at the end of Muskrat Road. He and his wife were in the process of moving here to Montana. In the interim, there was an error in the assessment of their taxes. Mail had been forwarded, but they never received the original tax assessment. They are asking that the Commission correct that error. They have filed with the Department of Revenue for a reassessment. They paid the first half of their 2007 taxes under protest. The assessor came out and physically assessed the property and realized the mistake. The assessment has been adjusted for the 2008 tax year, but they are requesting that the change be applied to the 2007 taxes. Commissioner Lythgoe asked about a dollar amount. George stated that it is about \$800. They have already paid about \$400 in excess for the first half, and they still have to pay the second half. Commissioner Lythgoe stated that the Commission will take this under advisement; he thinks that the Teelings have a legitimate concern. They will talk to the Treasurer and the County Attorney and see what we can do. Commissioner Notbohm stated that the same thing happened to him at one time. He feels that there should be a way to deal with this when there is an error. Commissioner Lythgoe stated that this will be back on the agenda in two weeks for a decision.

RESOLUTION 08-2008 ESTABLISHING BURNING SEASON

Commissioner Lythgoe read the resolution as follows:

RESOLUTION 08-2008 ESTABLISHING BURNING SEASON

WHEREAS, Section 7-33-2205, MCA, provides that the county governing body may, at its discretion, establish fire seasons annually, during which time no person may ignite or set any forest fire, slash-burning fire, land-clearing fire, debris burning fire, or open fire within the County protection areas on any forest, range or cropland without having obtained an official

written permit to ignite or set such fire from the recognized protection agency for that protection area; and

WHEREAS, Section 7-33-2206, MCA, provides that any person who ignites or sets any forest fire, slash-burning fire, land-clearing fire, debris burning fire, or open fire within the County protection areas on any forest, range or croplands without having obtained an official written permit to ignite or set such fire is guilty of a misdemeanor punishable by a fine not to exceed \$500.00 or be imprisoned in the county jail for any term not to exceed six (6) months, or both.

NOW, THEREFORE, BE IT RESOLVED, that the Jefferson County Board of County Commissioners establish the 2008-2009 fire season for Jefferson County from the date of this resolution to February 28, 2009. During the period from March 1, 2008 through November 30, 2008, a person must obtain a permit from Jefferson County before igniting any fire referred to above. Any burning during the period from December 1, 2008 through February 28, 2009, an additional permit must be obtained from the State of Montana Department of Environmental Quality authorizing burning during that period. This additional documentation must be presented to the recognized issuing agency for Jefferson County before a permit may be issued. Burning Permits can be written for a one (1) year period, but the permittee must call the appropriate dispatch center each time before burning. Permits are available at the following locations:

Marks-Miller Post and Pole
15 Lump Gulch Rd.
Clancy, MT 59634

Montana City Store
1 Jackson creek Rd.
Montana City, MT 59634

Jefferson County Sheriff's Office
110 S Washington
Boulder, MT 59632

Whitehall Town Hall
PO Box 539
Whitehall, MT 59759

DATED this 26th day of February, 2008.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Notbohm seconded. The motion carried.

DISCUSS REQUEST BY FAIR BOARD FOR PARK FUNDS

Marilyn McCauley read a letter of request from the Fair Board (on file in the Clerk and Recorder's Office), requesting that the Commission direct half of the current and future park funds to the Fair Board account as received by the county each month.

Harold Stepper, County Planner, asked for clarification if this would be permanent. Marilyn stated that this would be up to the Commission. Harold stated that one thing that came to mind when this first came up, is the public park in the north end. He would rather that this goes year to year, to allow for other projects. There isn't a lot of money in the fund. He checked with Bonnie that morning and stated that in November 2007, \$3,894.94 was allocated to the Fair Board for the carousel. The account is currently at \$6,768.45. Harold noted that one thing we have to remember, by state statute, we can only use half of what is in that fund for repair and maintenance; the other half has to be used for purchase of land.

Commissioner Lythgoe stated that we don't have any idea how much money is coming into this fund on a yearly basis. Harold stated that this is correct. It varies from year to year; at times the developer will dedicate parkland, usually a gully or other un-buildable space. Also, as of the last session, they now have to consider dedicated park ground on minor subdivisions. Commissioner Lythgoe stated that this is a "may", however, not a "shall". Harold stated that this is correct.

Commissioner Notbohm asked regarding park ground, if there has been legislation that will allow us to get rid of some of these park grounds. Harold stated that they have tried the last two sessions to at least get full use of these funds for repair of parks. This has been soundly defeated in the first committee meeting both times, so he is not sure that they will try to bring it forward again. It is already in statute that if they do a parkland inventory and come up with a park plan, we can then divest ourselves of some of these parcels. That is the goal that he has been working towards, to get this inventory finished. Commissioner Notbohm stated that care of the parklands isn't incorporated into the covenants, so we have a lot of little pieces. He asked if there is a rough count. Harold stated that they have to pull every plat that has been filed.

Commissioner Lythgoe stated that he has a problem designating in perpetuity half of these funds to the Fair Board. He feels that it would be more appropriate for the Fair Board to come forward

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on a yearly basis to request the funds. Commissioner Notbohm stated that he tends to agree with that, although if we can get the inventory project done and divest ourselves of most of these other parklands, he would be more in favor of it. This isn't something that they can count on as a source of income. Commissioner Lythgoe stated that the reality is that most of the "park grounds" are the worst pieces of ground in the subdivision, and we may not be able to sell them. May be able to do a boundary relocation or sell for a dollar, but most aren't worth anything.

Harold noted that another thing is that there have been several of these pieces of parkland come back to us on tax deed. This costs the county money. The other thing, if they bleed off all the maintenance funds to other projects, we tie our hands to other projects that we may need to take care of. With the housing turn-down, even though we aren't affected quite as bad in Montana, we will be affected. Subdivisions are slowing down, and they aren't seeing any sizable developments coming in. He doesn't see us getting a lot of money in at this time until the whole thing with the housing gets straightened out. There is an unbelievable inventory of lots available in Jefferson County at this time.

OPPORTUNITY FOR PUBLIC COMMENT

Barb Reiter stated that she understands that there will be some reshuffling of office space. She is a member of the Horizons Resource Committee, which she would really label as social services committee. Barb noted that many of the services that used to be available in Boulder are no longer available here. One of the things that they are trying to do as a group from the Horizons program is to try to bring back Welfare, which is now known as TANF, LIEAP services, etc., so that people don't have to travel to Helena to fill out the paperwork or get that information. They are proposing that when the County is shuffling office space around, that a space be found for public services personnel to meet with people. They would be able to set up shop for a day, and the time and place that they will be available can be publicized. They are asking that one set place can be established, so that there is no confusion of moving the space from place to place.

Commissioner Lythgoe asked how it is going with the state agencies. Barb stated that they are in the process of talking, but don't want to be misleading that a space is available. Jan Anderson stated that she is on the same committee, and they have had some indication that some state agencies would be willing to come down once a week if there was a reliable space available to meet. Commissioner Notbohm stated that an easily accessible space is important, because there could be people coming in with small children. Jan stated that they were told that there are no Jefferson County families on TANF at this time, which they find hard to believe. Commissioner Lythgoe thanked Barb for bringing this forward, and it will be discussed at the following meeting.

Commissioner Notbohm moved to adjourn. Commissioner Lythgoe seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER